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### Keeping Up with New Legal Titles: The Legal Research Manual with Video Modules, 2nd Ed.

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## Keeping Up with New Legal Titles\*

Compiled by Benjamin J. Keele\*\* and Nick Sexton\*\*\*

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\* The works reviewed in this issue were published in 2015, 2016, and 2017. If you would like to review books for "Keeping Up With New Legal Titles," please send an e-mail to bkeele@iu.edu and nsextton@email.unc.edu.

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Bandler, John. *Cybersecurity for the Home and Office: The Lawyer's Guide to Taking Charge of Your Own Information Security*. Chicago: American Bar Association, 2017. 416p. \$69.95.

*Reviewed by Carey A. Sias\**

¶1 The first American Bar Association title to address cybersecurity in the home, John Bandler's *Cybersecurity for the Home and Office: The Lawyer's Guide to Taking Charge of Your Own Information Security* is a comprehensive guide to securing networks and devices. Although written for lawyers, the subject matter applies to anyone who uses a computer. Bandler considers cybersecurity a fundamental requirement for responsible Internet use, akin to following the rules of the road when operating a vehicle. He acknowledges that the balance between confidentiality, integrity, and availability is an imperfect compromise that varies from person to person.

¶2 The book describes a wide scope of concepts in an approachable and reassuring manner that will not overwhelm novices. It instructs users to make incremental improvements but cautions against applying too many changes at once. Readers should evaluate their specific needs and learn to secure their homes and devices before extending practices to other locations. Recommendations are straightforward and cost nothing to implement.

¶3 The text is organized into two main sections: the first builds a foundational awareness of computers, networks, and information security principles; the second offers directions for protecting readers and those around them under a variety of circumstances. Chapters one through three explain the value of personal data in cybercrime and advertising economies, and how it can be compromised by threats

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such as payment fraud, identity theft, phishing, ransomware, and hacking. Readers will understand why cybersecurity measures can help reduce the threat of confidential information being compromised or stolen, but they will not learn how to implement these measures until the second half of the book.

¶4 Chapter four expands on the principles of information security: physical access to devices; data confidentiality, availability, integrity; and user account permissions. Chapters five and six cover computer, network, and Internet structures, including standard components of hardware and software. The first section of the book provides a thorough, 100-page crash course in modern technology. While detailed and descriptive, the topics are not imperative for readers to master before they can understand the security principles in the second part of the book. Those looking for actionable instruction may be impatient with the amount of background information presented in the first six chapters. Eager readers: roll up your sleeves and skip to page 105, where the action starts.

¶5 In the second section, readers learn to protect their devices and data in a systematic, incremental manner. Cybersecurity does not have a “one size fits all” approach, so in chapter seven users evaluate their personal “security dial” with the help of questionnaires in the appendixes and then begin making simple improvements. Starting tips include setting complex passwords on all devices and routers, running anti-malware software, disconnecting devices from the Internet, and using two-factor authentication. Some readers may find the advice obvious, while others will be surprised to find glaring omissions in their security practices. This chapter glosses over a few crucial elements. Bandler neglects to describe the differences between anti-virus and anti-malware software, referring to both types as “anti-malware,” and only recommends free versions. Readers are discouraged from using password management programs due to their “single point of failure” vulnerability, but they are instructed to keep a list of their passwords in the back of the book—a solution that carries the same risks, without the flexibility or security benefits of a password manager.

¶6 Chapters eight through ten guide readers through an inventory and security assessment of their devices, data, and network components, adding to the core principles from chapter seven with elaboration on backup strategies, encryption, firewalls, and router administration. Sections include “quick tip” bullet points, which would be more helpful if compiled into checklist format at the beginning of each chapter. Chapters eleven through thirteen apply the same fundamentals to various users and locations, with tailored tips for family members, children and seniors, traveling, and the office. While I appreciated the step-by-step method of considering each device and situation, Bandler’s solutions were repetitive, and his lengthy explanations may lead users to skim or skip these chapters. Bulleted checklists and references to information covered in previous sections would help to keep readers engaged.

¶7 The final two chapters and appendixes, the book’s greatest selling points for lawyers, come up too little, too late. Chapter fourteen, “The Law, and the Role and Responsibilities of Lawyers,” touches on many standards and rules but neglects to provide a checklist for compliance. It notes that “reasonable” cybersecurity measures are often vague, subject to change, and may be affected by state regulations. Reformatting this chapter as an outline of sources to consult, rather than an attempt to explain in brief why each is important, would be useful. Chapter fifteen,

“Troubleshooting and Responding to Your Own Incidents,” is a bulleted outline of potential issues related to devices, data, networks, and cybercrime incidents, with accompanying questions to help readers develop a troubleshooting framework. This chapter, as well as the inventory and decommissioning checklists from the appendix, gives clear instruction in a concise format. Select forms from the appendix are available through the companion website, <https://cybersecurityhomeandoffice.com> [<https://perma.cc/N4BD-37ZH>].

¶8 Overall, *Cybersecurity for the Home and Office* is an effective resource for readers interested in securing their home networks and devices. Law firm audiences and those looking for the next step in strengthening their cyber hygiene will find an excellent pairing in the ABA’s *Law Firm Cybersecurity*,<sup>1</sup> a skimmable 130-page volume that employs bullet points and definitive subject headings to land a solid punch in a slim package. Its “Ten Commandments of Cybersecurity” chapter covers the same basic tenets found in Bandler’s book, packed into a four-page format that can easily be used as a checklist. Not all directives are described in terms applicable to home offices, but they could practically be applied to a small office setting. These complementary titles would benefit any law library collection.

Berring, Robert C., and Michael Levy. *The Legal Research Survival Manual with Video Modules, 2nd Edition*. St. Paul, Minn.: West Academic Publishing, 2017. 87p. \$50.

*Reviewed by Christine Iaconeta\**

¶9 *The Legal Research Survival Manual with Video Modules*, by Robert Berring and Michael Levy, is an eighty-seven-page book written in a conversational, informal tone, packed with all the information new legal researchers need to survive their early days in the law library. The book’s intended audience are novice legal researchers, in particular first-year law students. The authors have filled the pages with sage advice but left out material novices are not likely to encounter during the first year of law school. The authors, with the help of two additional experts, have added twelve online videos readers can access for expanded explanations of the material in the book.

¶10 The book starts by introducing the resources new students are likely to see in their first semester—casebooks, hornbooks, nutshells, and other study aids. The discussion of casebooks and the casebook teaching method is particularly well done, informing readers on how casebooks teach students to think like lawyers, not to learn what the law is. This is followed by an excellent discussion of hornbooks, nutshells, and commercial study aids students can use to provide context for what they have read in their casebooks and to enhance their understanding of the material. The authors then introduce readers to the big three online systems they will encounter in law school: LexisNexis, Westlaw, and Bloomberg.

¶11 Next is a brief introduction to some of the secondary sources new students may encounter in their first year—legal dictionaries, citation manuals, the Restatements, and the Uniform Commercial Code. The chapter concludes with the

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1. DANIEL GARRIE & BILL SPERNOW, *LAW FIRM CYBERSECURITY* (2017).

\* © Christine Iaconeta, 2018. Law Library Director, Garbrecht Law Library & Donald L. Garbrecht Law Scholar, University of Maine School of Law, Portland, Maine.

authors offering some advice on surviving the first semester of law school. Providing basic information of which many students entering law school are not aware was an excellent choice. Furthermore, this information is provided in a concise, conversational tone that is easily understandable.

¶12 The authors have dedicated a little over half the book (chapters two and three) to discussing the structure of cases and the methods used to find case law. Chapter two begins with discussing what a case is and where it comes from. The authors carefully outline the U.S. court system, distinguish issues of fact and issues of law, and explain the types of opinions the court can issue: majority opinions, concurrences, and dissents. They also discuss the doctrine of precedent, the parts of a case, citation format, and the National Reporter System. Although the authors cover a lot of ground in this chapter, they do so in a clear and concise way, making some difficult topics easy to understand.

¶13 Chapter three is devoted to outlining strategies used to find cases. The authors begin with the “case in hand” method and describe how one relevant case will lead the researcher to a lot of relevant information, while pointing out that this may be the easiest way to start a research project. The authors move on to discuss natural language searching, terms and connectors searching, and the West Topics and Key Number System. The chapter concludes with a very brief discussion of Bloomberg Law and the other newcomers to online legal research: Casemaker, Fastcase, and Ravel Law.

¶14 Chapter four discusses citators and their uses. This chapter provides easy-to-understand definitions of the terms used by each system, such as “history” or “appellate history,” “citing decisions” or “citing references,” and the like. In the last chapter, the authors discuss statutes, including the forms of statutes, how to find them, and how they are useful tools.

¶15 The authors, along with Berkeley Law professors Lindsay Saffour and Patricia Hurley, have created twelve videos that, like the text, are short and simple. They do not contain all the details covered in the book, but they provide the basics and enhance the subjects discussed in the book. The casual language used in the text is carried over to the videos, making them easy to understand and less staid.

¶16 *The Legal Research Survival Manual with Video Modules* is not intended to be a comprehensive text on legal research. Instead, the authors have provided information only about the things new researchers are likely to face in their first year of law school. Rather than provide more details or branch out to the more difficult facets of legal research, the authors strongly recommend that readers take an advanced legal research course. They successfully stick to their less-is-more philosophy and deliver a text that is perfectly suited for the intended audience, first-year law students. Furthermore, the videos are an excellent addition to the text. I especially like that there are separate videos on secondary sources and administrative law resources.

¶17 If I have one criticism of the text, it is that the authors could have spent more time on the use of secondary sources in the research process and could have helped point novices in the right direction toward relevant primary sources. With regard to the administrative law resources, the authors were correct to leave them out of the text and include them only in video form as this complicated area of law tends to confuse new law students. As such, providing this information in a video that researchers can watch when needed is an excellent idea. Overall, the authors

have done exactly as they intended. They have provided new legal researchers with a resource that provides the nuts and bolts of the legal research they need to get started in law school, and they have done so in an easy-to-understand manner.

Bessler, John D. *The Death Penalty as Torture: From the Dark Ages to Abolition*. Durham, N.C.: Carolina Academic Press, 2017. 460p. \$40.

*Reviewed by SaraJean Petite\**

¶18 In *The Death Penalty as Torture: From the Dark Ages to Abolition*, John Bessler argues “that, in the twenty-first century, death sentences and executions should be legally classified as forms of torture” because the law already considers “*torturous threats of death*” by nonstate actors to be torture, and “executions are *more severe* than many *non-lethal acts* already classified as illicit acts for torture” and, as illicit torture, should be illegal by international standards (pp.xxiii–xxiv) (emphasis in original).

¶19 In the introduction, Bessler explains how American law currently classifies torture as “an *extreme* form of cruelty . . . that involves *intentional*—not negligent—government conduct,” and that “the right to be free from torture [is] an ‘unenumerated’ or ‘natural’ right,” but that American courts have not held that the death penalty is, in itself, torture (pp.xv–xvi).

¶20 In chapter one, readers learn how, from the Dark Ages until the Renaissance, torture and humiliation were part of the death penalty, and governments used torture when interrogating suspected criminals. Using graphic descriptions of various torture and execution methods, the author impresses on readers that something needed to change in the world’s criminal law systems.

¶21 Chapter two introduces readers to Charles de Montesquieu and Cesare Beccaria and the perspective that “[a]ll punishment which is not derived from necessity is tyrannical” and that “[e]very act of authority of one man over another, for which there is not an absolute necessity, is tyrannical” (p.37). This perspective led to regulations on torture and limits on the death penalty in Europe, incorporating the concepts of proportionality (death is not a proportionate penalty for a crime such as theft) and deterrence (a lesser penalty could have the same deterrent effect).

¶22 In chapter three, the author discusses the movement toward abolition of the death penalty. He starts with the influence of Beccaria’s book, *On Crimes and Punishments*, in Europe, Colonial America, and South America. He moves to the industrial age, the movement toward penitentiaries rather than the death penalty, and the United Nations’ initiatives against the death penalty.

¶23 Chapter four, “The Machinery of Death,” is about the practical aspects of how the death penalty works: the types of crimes for which prosecutors request it, people who are exempt from execution, and its use as a way to coerce defendants to plead guilty. It also describes the psychological harm that often results from living on death row, and the physical and psychological pain caused from the time an execution date is set until the execution is completed.

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\* © SaraJean Petite, 2018. Government Resources Manager and Bibliographic Access Librarian, The Judge Ben C. Green Law Library, Case Western Reserve University School of Law, Cleveland, Ohio.

¶24 The U.S. Supreme Court's approach to the death penalty is the subject of chapter five. The Court has heard cases arguing that the death penalty violates the Eighth Amendment prohibition on cruel and unusual punishment. In *Furman v. Georgia*,<sup>2</sup> the Court held that death penalty statutes were cruel and unusual because of how they were applied—with a bias against minorities. But despite several Justices' personal opposition to the death penalty, the Court has not held that it is *per se* cruel and unusual.

¶25 "The Law and Its Evolution" is chapter six. Under international law, torture is illegal. But when ratifying the United Nations Convention on Torture and the International Covenant on Civil and Political Rights, the United States reserved the right to use the death penalty. In addition to torture, international law forbids "cruel, inhuman, or degrading treatment or punishment" (CIDT) (p.141). The difference between torture and CIDT is one of degree: torture involves "extreme,' 'intense,' or 'great' pain" and CIDT involves "*significant* pain or suffering" (p.146). Bessler compares the victim's fear of impending death in a torture-murder to the condemned person's fear of impending death when the execution process starts, and he argues that if the former is torture, the latter is also. He also analogizes executing a prisoner strapped to a gurney to applying physical force to a person who has been arrested and is in handcuffs—the law forbids the latter as unnecessary use of force, so it should forbid the former also.

¶26 Commentators have excluded suffering that is an inherent part of lawful sanctions from the definition of torture. In chapter seven, Bessler discusses what "lawful sanctions" means. An important question is whether "lawful" refers to domestic or international law. Bessler explains that, when ratifying an international treaty, a nation may do so with reservations, which limit the legal effect of the treaty, or with understandings or declarations, which clarify what that nation considers the treaty language to mean. Some nations have argued that an understanding or a declaration that defines lawful as being lawful under domestic law is actually a reservation and therefore violates the object and purpose of the UN Convention. United States courts have refused to extradite people to countries where lawful sanctions consist of torture because that defeats the object and purpose of the Convention Against Torture, but "unanticipated or unintended severity of pain or suffering does not constitute torture" (p.189).

¶27 In chapter eight, Bessler drives home his point that the death penalty is torture. Threats to kill are mental torture. The Supreme Court of Appeals of Virginia held that "[t]he psychological aspect of torture may be established, for example, 'where the victim is in intense fear of, but is helpless to prevent, impending death . . . for an appreciable lapse of time'" (p.221). Solitary confinement, which can result in serious psychological harm, has also been held to be mental torture in some cases. Bessler argues that the death penalty is ineffective because it does not prevent crime and it is not necessary to control an imminent threat, and there is no justification for putting a prisoner through the psychological harm that comes from solitary confinement and the threat of impending death.

¶28 "A *jus cogens* norm reflects the values, interests, and concerns of a substantial or vast majority of nations. When conduct is prohibited by a *jus cogens* norm, any behavior of a country in violation of that norm is thus strictly prohibited by

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2. 408 U.S. 238 (1972).



international law and no country can derogate from that norm” (p.261). Chapter nine describes how a ban on the death penalty is moving toward being a *jus cogens* norm. Europe no longer has the death penalty, and most countries without the death penalty refuse to extradite to countries that do. The U.S. Supreme Court, while not holding the death penalty *per se* unconstitutional, has been limiting its use by holding that specific applications are “cruel and unusual” and therefore forbidden. Bessler sounds optimistic that evolving standards of decency will eventually lead the Court to hold the death penalty itself unconstitutional, which will move a death penalty ban closer to being a *jus cogens* norm worldwide.

¶29 The book’s conclusion concisely restates the principal arguments in four pages, but the forty-four pages of footnotes contain discussions that this reviewer believes would have been better incorporated into earlier chapters or perhaps made into stand-alone chapters, with the footnotes referring readers back to earlier portions of the book.

¶30 Bessler cites a diverse group of sources, ranging from ancient documents to websites. While some of the links had become outdated after the book’s publication, most of them worked. This book has helpful chapter headings and subheadings, and the page layout is easy on the eyes. But this not an easy book to read. It is disturbing, graphic, and thought-provoking. Bessler weaves his main points throughout the book, and while readers may disagree, they will not misunderstand his argument. This book would be an excellent addition to an academic law library’s collection.

Chemerinsky, Erwin, and Howard Gillman. *Free Speech on Campus*. New Haven, Conn.: Yale University Press, 2017. 197p. \$26.

*Reviewed by Sarah K. Starnes\**

¶31 Erwin Chemerinsky and Howard Gillman present a rousing history of the First Amendment in *Free Speech on Campus*. They trace the right to free speech and coexistence of controversies surrounding free speech on university campuses starting from the creation of the first university until now. The book highlights the increasing and unsettling prevalence of both universities and students wanting to “suppress and punish the expression of unpopular ideas” (p.18), and it discusses how to ensure that “all ideas and views should be able to be expressed on college campuses, no matter how offensive or how uncomfortable they make people feel” (p.19). Chemerinsky and Gillman suggest several reasons for the increase in suppression of free speech, based substantially on the fact that this newest generation of students was taught from a very young age to not bully others. Freedom of speech is very theoretical and abstract to this generation, as they “*did not grow up at a time when the act of punishing speech was associated with undermining other worthwhile values*” (p.10; emphasis in original).

¶32 Chapters two through four trace the concept of free speech from its inception, estimated to be more than 2500 years ago, to the 1600s, when the first free speech controversies occurred in England, to its current interpretation today. Citations to case law become increasingly prevalent as Chemerinsky and Gillman build

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a working and ever-changing definition of what free speech is and how it applies to universities. They begin by stating that for many years “higher education was not founded on free thought but on indoctrination” (p.49). However, by the early nineteenth century, American scholars were increasingly traveling to European universities and coming back with the idea to encourage and foster free inquiry. By 1915, the American Association of University Professors was created to ensure the right of professors to express themselves “without fear or favor” (p.65). The Berkeley Free Speech Movement of the 1960s had students demanding that the university environment change from “a heavily regulated space of professional instruction” to “a public forum for free speech” (p.75).

¶33 Chapter five consists of guidance for universities in a series of “can’ts” and “cans” to foster positive learning environments. For each of these comparisons, Chemerinsky and Gillman provide case law as proof and explanation. For example, campuses “*can’t prevent protestors from having a meaningful opportunity to get their views across in an effective way*” but “*can impose time, place, and manner restrictions on protests for the purpose of preventing protestors from disrupting the normal work of the campus, including the educational environment and administrative operations*” (pp.125–26; emphasis in original). These are straightforward and particularly helpful by giving specifics to those who may need further understanding and guidance on how to enforce some limitations while ensuring the rights of free speech. The authors argue that universities should welcome controversial speech and encourage a discussion of it rather than suppress or eliminate it.

¶34 The authors conclude by restating their concern that college campuses are not giving enough attention to teaching free speech and thus “students’ support for basic free speech principles is dramatically eroding” (p.155). There must be tolerance for opposing viewpoints and a willingness to discuss and debate these differences in order for our “diverse [and] democratic society to survive” (p.158). This book is a great reminder of how important First Amendment and free speech values are, and how leaders in education must foster an environment that provides and encourages controversial topics and the resulting conversations.

Eisinger, Jesse. *The Chickenshit Club: Why the Justice Department Fails to Prosecute Executives*. New York: Simon & Schuster, 2017. 377p. \$28.

*Reviewed by Adeen Postar\**

¶35 Yep, you are absolutely correct. I chose to review this book because of the title. How could I not read a book with the word “chickenshit” in the title? It comes from James Comey’s (right again, that James Comey) 2002 remarks as U.S. Attorney for the Southern District of Manhattan to members of the criminal division who had never had an acquittal or tried a case that resulted in a hung jury: “You are members,” he told them, “of what we like to call the Chickenshit Club” (p.xiv). Comey charged that these driven and highly skilled attorneys prosecuted easy cases and failed to take the necessary risks to “right the biggest injustices, not [just] go after the easiest targets” (*id.*). This book traces the erosion of the Department of

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Justice's will to prosecute individuals in white collar and corporate criminal actions, particularly after the Enron and Arthur Andersen cases.

¶36 Eisinger argues that cultural and political changes after Enron led the government to seek expedient settlements through no-admit, no-deny, and nonprosecution agreements with corporations like AIG, UBS, Countrywide, Bank of America, Citi Group, and Goldman Sachs. These settlements were supposed to result in better corporate accountability and compliance with the law. Fines were assessed, but most of them were quite low when compared with the overall profitability of the "guilty" firm. Fraud cases with corporate defendants who were "too big to fail" were enormously complicated and defended by corporate officers and lawyers with the finest educations, skills, and credentials, which supposedly made proving individual guilt by prosecutors difficult or impossible. Eisinger also argues that at least some government attorneys sought to further their postgovernment service careers in the more lucrative private practice of law by not engaging in aggressive white-collar crime prosecutions. This all resulted in no one being held accountable for these corporate frauds, no matter how egregious the crime or the damage done to consumers, investors, and mortgage holders.

¶37 Eisinger presents his arguments on why the Department of Justice, and to a lesser extent the Securities and Exchange Commission (SEC), failed to prosecute individual employees through an almost endless series of highly detailed vignettes on the financial crime cases of the post-Enron era. Eisinger shows great care in his original research and subject interviews, but the sheer number of these stories and the many different people involved are confusing and, well, rather depressing, at least to this reader, who had a much more positive (naïve?) view of the Department of Justice before reading this book. I even felt the need for a character map that listed the cases and the attorneys. Editing, reducing the number of litigation-related "war stories," and perhaps a less polemic tone would have made this a more readable book.

¶38 Eisinger portrays both heroes and villains here. He makes some quite harsh assessments of the leadership of the Justice Department, particularly in the Obama administration, where many highly placed attorneys came from large firms whose clients were the very corporations that were the targets of criminal and civil investigations. Eisinger's heroes include the fearless Judge Jed Rakoff of the Southern District of New York. Eisinger traces Rakoff's career from law school to the district court, approving of Rakoff's rejection of several weak corporate plea deals. Other notable heroes include attorneys Paul Pelletier (Justice) and James Kidney (SEC), both career government attorneys, who believed that everyone involved in corporate wrongdoing should be held accountable, even in the face of strong and sustained pressure to take a milder stance by leaders at Justice and the SEC.

¶39 Eisinger points out that the tide may be turning in favor of punishing the guilty in corporate fraud cases in the face of public outrage that no individual was found guilty in the aftermath of the 2008 financial crash. But we are not there yet. Eisinger tells us that "[o]ver the course of three decades, the public and the civil servants . . . lost belief in the good that comes from enforcement and regulation. . . . Regulators don't pursue leads. Prosecutors don't open cases. The enforcers never make Wall Street executives explain their actions" (p.267). We need to reverse that attitude along with all aspects of regulatory capture now.

Gorham, Ursula. *Access to Information, Technology, and Justice: A Critical Intersection*. Lanham, Md.: Rowman & Littlefield, 2017. 141p. \$70.

*Reviewed by Erik Beck\**

¶40 Having worked as a bankruptcy court law clerk at the height of the Great Recession, Ursula Gorham witnessed firsthand the unprecedented growth of self-represented litigation that has transformed the legal services market and the civil court system in the past decade. As she explains in her introduction to *Access to Information, Technology, and Justice: A Critical Intersection*, this swell of *pro se* representation led to “an overburdened system that was not designed to assist those without legal counsel and was thus unable to guarantee equal access to justice for an increasing number of people” (p.xiii).

¶41 Gorham would later go on to study this “justice gap” as a PhD student at the University of Maryland College of Information Studies. This book expands her dissertation argument. She examines the efficacy of information and communication technologies built to support *pro se* litigants, with special focus on the network of statewide legal information websites funded by the Legal Services Corporation (LSC). The book’s centerpiece is a study of these websites’ administrators, which Gorham uses to identify challenges implicit in publishing legal self-help resources online and to pose recommendations for improving these services.

¶42 The first few chapters of the book offer a well-researched history of access to justice issues involving self-representation and the legal self-help services that arose to support *pro se* litigation. Gorham begins by describing the shortfall in the legal services industry’s capacity to fully represent a growing tide of valid legal claims and the federal courts’ reliance on self-representation programs and resources to bridge the gap. Under this policy, citizens would still have their day in court, but they would have to pursue their claims on their own, using a host of educational materials and workshops to guide their way.

¶43 Gorham briefly explores efforts of other scholars to evaluate legal self-help services. She finds that most of the relatively few studies in this area come to a similar conclusion: that there is often disjuncture between what the layperson thinks she or he needs to litigate a case effectively and what the professional thinks the layperson needs. This disconnect between what the information provider offers and what the information recipient expects is the central conflict that the book addresses, and it sets the stage for Gorham’s study on LSC-funded statewide information websites.

¶44 For her study, Gorham posed a number of questions to website administrators relating to institutional involvement, development practices, usage, and barriers to access of their state’s given website. She collected twenty-six responses via online surveys and twenty-seven via telephone interviews from participants representing twenty-eight states. Although questions in the survey were presented as both multiple choice and free response, it seems the data that were generated were mainly qualitative and were presented in the book selectively as anecdotes. While Gorham’s study does appear to sufficiently represent the thoughts and concerns of information providers, I believe its usefulness as an evaluative tool is limited by a

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fatal flaw she makes in its construction: she does not survey the users of these websites.

¶45 Gorham's stated purpose for her study is to "open the black box" of how these websites are administered and to find out "what states are doing" to deliver information to users. While she does succeed in accurately documenting the activities of website administrators, the question of whether what they are doing is actually working is left unanswered. Since Gorham's own review of past studies found a disconnect between information providers and information recipients, it is unclear why she thought an investigation focusing only on website administrators would have provided additional insight into the needs of pro se users.

¶46 In her final chapter, Gorham offers recommendations for conducting user tests that could be employed to assess the value of different content and to locate barriers to access. As an information provider and legal information website administrator myself, I would have preferred a book that started with user testing rather than ended with it and that sought to open the real "black box" of user motivation, technical literacy, and information need.

Herzog, Don. *Defaming the Dead*. New Haven, Conn.: Yale University Press, 2017. 270p. \$40.

*Reviewed by Amy M. Koopmann\**

¶47 Should a cause of action exist for defaming a deceased person? In *Defaming the Dead*, Don Herzog takes an intellectual and entertaining approach to addressing this question. Reading Herzog's book feels like having a conversation with a clever friend who challenges you to consider not only what you believe but why.

¶48 Herzog divides his book into six chapters, each with its own purpose. Herzog believes that there should be a cause of action for defaming the dead, and he tells us this up front. In his first chapter, "Embezzled, Diddled, and Popped," however, he rejects most of the reasons that come to mind when thinking about why a cause of action should exist for defaming a dead person (for example, the effect it has on family and loved ones). Herzog also specifically "renounce[s] any appeal to religion or the afterlife" in supporting his argument (p.12).

¶49 He outlines two theses that he returns to throughout the book: the "oblivion thesis" and the "hangover thesis." The oblivion thesis views death as the end of all rights and interests, and therefore no cause of action should exist for defamation. The "hangover thesis" is "an explanation of why we nonetheless have intuitions that the oblivion thesis denies make any sense: it's because we continue, however embarrassedly, to cling to beliefs about the afterlife that we officially disavow" (p.26). Herzog acknowledges the appeal of these theses but rejects them.

¶50 In chapter two, "Tort's Landscape," Herzog provides a useful overview of tort law. While he has no intention of offering a "nutshell" ("Law students use those little books crammed with doctrine, to cram for exams" [p.27]), his summary is succinct and points out distinctions between jurisdictions and exceptions to general rules without burying the reader in unnecessary detail. After discussing tort law generally, he focuses specifically on the tort of defamation. This chapter makes

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the book accessible to those without a working knowledge of tort law, while keeping it interesting for those who have such knowledge.

¶51 Perhaps the most fascinating feature of this book are the examples Herzog uses of real cases and situations, ranging from the historical to the modern. Chapters three, four, and five, “Speak No Evil,” “Legal Dilemmas,” and “Corpse Desecration,” are filled with these. Herzog’s examples can generally be grouped into two (sometimes overlapping) categories: situations where the law protects the interests of the dead and situations where cultures expect a certain treatment of the dead. He does not rely solely on the law as it presently exists (or as it existed in the past) or on cultural convictions. Of the latter, he remarks, “they’re worth some epistemic deference, in the sense of taking them seriously and wondering what reasons might be—and have been—adduced on their behalf” (p.167). He rejects, however, “any claim of the form that they must be right or are automatically more credible than any critical insights we can bring to bear once we have taken them seriously” (*id.*). The real-life examples include statements about Margaret Fuller from Nathaniel Hawthorne’s posthumously published journals, historical English and American criminal defamation prosecutions, and several cases involving a railroad line that seemed to have trouble getting bodies of the deceased where they belonged on time and unharmed.

¶52 Herzog’s final chapter, “This Will Always Be There,” draws on legal, cultural, and philosophical considerations to argue for a cause of action for defamation of the dead. He does not propose a particular statute and acknowledges there are several considerations that would need to be worked out in creating any such statute. What pushes Herzog particularly to support such reform is the notion that the dead’s reputation holds an important distinction from that of the living: “Your reputation after death is a final settling of accounts, unlike your reputation while alive. . . . When that account is damaged by defamation, it’s all too likely to stay that way” (p.264).

¶53 While Herzog’s book is entertaining, it is peppered with serious and at times disconcerting examples, particularly in the “Corpse Desecration” chapter. Perhaps such examples are unavoidable in a thorough coverage of this topic (the book is, after all, about death and defamation), or perhaps Herzog chooses particularly poignant and sometimes uncomfortable examples to emphasize his point. He certainly succeeds in producing a thought-provoking work that forces readers to consider their own knowledge and assumptions about death, culture, and the law.

¶54 *Defaming the Dead* would be a worthy addition to an academic library collection, law or otherwise. This work provides a unique approach to considering both defamation and the legal rights of the deceased, and does so in a captivating manner, while providing useful citations to a variety of source material. An open access version of the book is also available online through the University of Michigan’s institutional repository.<sup>3</sup>

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3. *Defaming the Dead*, DEEPBLUE, <https://deepblue.lib.umich.edu/handle/2027.42/118195> [<https://perma.cc/NWV6-W228>].

Kalman, Laura. *The Long Reach of the Sixties: LBJ, Nixon, and the Making of the Contemporary Supreme Court*. New York: Oxford University Press, 2017. 468p. \$34.95.

*Reviewed by Robert N. Clark\**

¶55 Partisan battles over Supreme Court nominations—whether in the media, in presidential campaigns, or in Senate confirmation hearings—have become such a familiar spectacle that it is easy to forget that things have not always been this way. In the preface to her book, *The Long Reach of the Sixties: LBJ, Nixon, and the Making of the Contemporary Supreme Court*, Laura Kalman reminds us that Supreme Court nominations under Truman, Eisenhower, and Kennedy were relatively uncontroversial. Then, “between 1965 and 1971, Supreme Court nominees and their confirmations became critical to presidential politics” (p.x).

¶56 This was partly due to a conservative backlash against a number of the Court’s decisions on civil rights and criminal procedure under the tenure of Chief Justice Earl Warren. In this light, Kalman refers to *Brown v. Board of Education*, which held that laws establishing racial segregation in public schools were unconstitutional, as “the midwife of the modern confirmation process” (p.105). In the wake of *Brown*, the Warren Court was often criticized as being “activist” and “liberal,” an image that Kalman’s book shows continues to shape the debate surrounding Supreme Court nominations today.

¶57 Throughout the course of this exhaustively researched and painstakingly documented history, Kalman makes excellent use of archival materials, including tapes of Oval Office telephone conversations, to take us behind the scenes with Johnson and Nixon as they wrangle, fume, despair, and wisecrack over the selection of nominees to the nation’s highest court. The cast of characters includes such pivotal figures as Thurgood Marshall and William Rehnquist, as well as a long list of would-be nominees and those whose nominations were rejected by the Senate.

¶58 One of the more compelling stories running through the first two-thirds of the book is that of Abe Fortas, who served as Associate Justice while simultaneously acting as an unofficial adviser to President Johnson, a longtime friend who had nominated Fortas in order to have an inside man on the Court. When Johnson later nominated Fortas as Chief Justice after Warren’s retirement, Fortas’s relationship with the president became a point of contention in a particularly bloody confirmation battle. That relationship, along with other ethical issues raised during the confirmation hearings, eventually led to Fortas’s resignation in 1969. Kalman has also written a biography of Fortas, and her intimate knowledge of her subject is evident here.

¶59 When we come to the Nixon years, Kalman does an especially fine job of showing how Nixon attempted to take advantage of Southern resentment of the Warren Court. After the successful nomination of Warren Burger as Chief Justice, Nixon was determined to nominate a Southerner to fill the vacancy created by Fortas’s resignation. This was part of Nixon’s “Southern strategy,” which he believed would “grow the Republican Party and unify the disparate elements within it” (p.209). His next nominee was Judge Clement F. Haynsworth, Jr. of South Carolina.

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During the confirmation hearings, Haynsworth was accused of having ruled in several cases in which he had a significant financial interest, and the nomination was ultimately defeated by a fifty-five to forty-five vote in the Senate. As Kalman points out, this defeat was less important to Nixon than the Southern goodwill he had earned with the nomination itself.

¶60 His second Southern nominee, Judge G. Harrold Carswell of Georgia, was also defeated in the Senate, where the opposition painted him as a racist and a mediocre jurist. Kalman notes that the significance of these defeats in terms of the confirmation process was the use of a “cover” issue—Haynsworth’s alleged ethics violations, Carswell’s reputation for mediocrity—to paper over ideological opposition to the nominee. By the time of Robert Bork’s defeated nomination in 1987 (discussed, along with more recent nominations, in the book’s epilogue), the cover had been dispensed with and the ideology was out in the open.

¶61 In *The Long Reach of the Sixties*, Kalman makes a significant contribution to our understanding of Supreme Court nominations and confirmations, as well as our understanding of the Johnson and Nixon presidencies. This is a well-argued and richly informative book that also manages to be highly entertaining (with a few exceptions). It would make a useful addition to any library that collects materials on American legal history.

Lockwood, Cristina D., and Pamela Lysaght. *Michigan Legal Research, Third Edition*. Durham, N.C.: Carolina Academic Press, 2016. 163p. \$28.

*Reviewed by Heather J. E. Simmons\**

¶62 Now in its third edition, *Michigan Legal Research* is part of Carolina Academic Press’s Legal Research Series. Cristina D. Lockwood and Pamela Lysaght are affiliated with the University of Detroit Mercy School of Law. As usual for the series, this volume covers three related topics: how to perform legal research in general, federal legal research, and Michigan legal research. In addition, this work includes discussion of legal analysis and the IRAC legal writing formula to determine the relevance of the authorities retrieved—what the authors call the “intersection of legal research and legal analysis” (p.4). Devoting separate chapters to research strategies and to citations, this book would make a suitable text for a legal research class. This review will focus on the portions of the book on Michigan legal research.

¶63 The authors discuss the relationship between print and online materials, with an emphasis on free resources. The work notes that one particularly valuable free source, the Michigan eLibrary (MeL),<sup>4</sup> is available only to Michigan residents. The authors also explain that Casemaker is included as a benefit of State Bar of Michigan membership. In the chapter on secondary sources, the authors point out two useful columns in the *Michigan Bar Journal*, “Plain Language” and “Libraries and Legal Research.”

¶64 Michigan used to have three statutory compilations: the official statutory compilation, *Michigan Compiled Laws* (MCL), and two commercial codes, *Michigan Compiled Laws Annotated* (MCLA) and *Michigan Statutes Annotated* (MSA).

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4. *Michigan eLibrary*, <http://mel.org/legal> [<https://perma.cc/5355-VF92>].



MSA had a completely different numbering system. Citations to both MCL and MSA were required by Michigan courts. In recent years, the Michigan Compiled Law Service (MCLS) has replaced the MSA. Now with identical numbering systems, the two commercial statutory compilations match the federal system, and researchers can use either commercially available statutory code, MCLA or MCLS, and just drop off the last letter in the citation. The official version, MCL, has not been published in print since 1979. The session laws, *The Public and Local Acts of the Legislature of the State of Michigan*, are no longer published in print.

¶65 While it can be inferred from “Table 3-4. Michigan Official and Unofficial Statutory Print Publications” (p.56), the authors fail to specifically point out that neither of the commercial compilations, nor the statutory code on the legislature’s website, has been designated as official. If Michigan were to enact the Uniform Electronic Legal Material Act (UELMA), it would go a long way toward resolving this problem. While the authors discuss uniform laws in the chapter on secondary sources, they fail to mention UELMA.

¶66 The book describes the intermediate appellate court, the Michigan Court of Appeals, which dates back to 1965. Since 1990, any Michigan appellate opinion binds all future panels, unless overruled by the Michigan Supreme Court. What the book does not make entirely clear is that Michigan’s geographical appellate court districts exist only to hold judicial elections.

¶67 The most valuable sections of this book cover Michigan administrative law and Michigan legislative history. Both chapters are detailed and thorough, providing a researcher with the information needed to research these challenging areas. Like the state statutory compilations, the most recent version of the *Michigan Administrative Code* was last published in print almost twenty years ago, and it has a reputation for having a particularly unhelpful index.

¶68 The authors attempt to write in an accessible style, directed at first-year law students and the lay public. However, I found the informal tone hurt the book’s communication. One annoying aspect was that the authors state that the first step in legal research is to “create a comprehensive list of words, terms, and phrases” (p.13). By definition, a researcher cannot compile a *comprehensive* list, as discovering key words and terms of art is one of the elements of legal research. If researchers already know enough about the topic to compile a comprehensive list, then they would not need to do much research.

¶69 This work focuses on current sources, citing the seminal *Michigan Legal Literature: An Annotated Guide*<sup>5</sup> for more detailed historical information. *Michigan Legal Research, Third Edition*, has a variety of additional features I found to be particularly helpful, including the index, tables, figures, and “Added Advice” boxes. Serving as either a course text or a desk reference, it is a detailed and useful work, and a suitable introduction to performing legal research in Michigan.

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5. RICHARD L. BEER & JUDITH J. FIELD, *MICHIGAN LEGAL LITERATURE: AN ANNOTATED GUIDE* (2d ed. 1991).

Marsden, Christopher T. *Network Neutrality: From Policy to Law to Regulation*. Manchester, U.K.: Manchester University Press, 2017. 304p. \$115.

*Reviewed by Janet Kearney\**

¶70 Network neutrality, also known as net neutrality, is a hot-button topic that is never far from the headlines. Christopher T. Marsden refers to the debate over net neutrality as “undead” and says that no one has been able to kill it (p.1).

¶71 In late 2017, the U.S. Federal Communications Commission voted to repeal current network neutrality rules, which were finalized under the Obama administration in 2015.<sup>6</sup> This is a particularly relevant topic for librarians and law librarians concerned with access to broadband Internet. The American Library Association and the American Association of Law Libraries released statements condemning the repeal since the initial public comment period in early 2017.<sup>7</sup>

¶72 This book is designed as a deep dive into the policy behind net neutrality, explaining how that policy has been implemented in laws and regulations across multiple states. While various states are included in the analysis, primary focus is given to the European Union, the United Kingdom, and the United States. Although this book is written for those interested in the policies and legal framework behind net neutrality, an understanding of the technology involved is helpful. Marsden explains the technological concepts without dumbing them down, but that can make it a significantly slower read for those less comfortable with the underlying technology or the historical framework on which regulation is traditionally based. Despite that, Marsden’s book provides readers with a deep, contextual understanding of net neutrality.

¶73 With *Network Neutrality: From Policy to Law to Regulation*, readers can better comprehend and contextualize the history and development of network neutrality. The book begins with a brief introduction to the topic, defining net neutrality as “the principle that Internet Access Providers (IAPs) do not censor or otherwise manage content which individual users are attempting to access” (p.1). While there are different variations of this concept, it essentially means that broadband providers must give consumers equal access to all content on the Internet in the same manner, without favoring or disfavoring certain content providers (like Netflix or Amazon) or requiring those providers or consumers to pay more for faster connections. This introduction successfully sets the stage for the rest of the chapters in the book that take significant deep dives: how the idea came about, current issues surrounding it, and the current legal framework.

¶74 The intersection between communications and competition law, mobile net neutrality, privacy issues, and specialized services all receive analysis, exploring the

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6. Cecilia Kang, *F.C.C. Repeals Net Neutrality Rules*, N.Y. TIMES (Dec. 14, 2017), <https://www.nytimes.com/2017/12/14/technology/net-neutrality-repeal-vote.html>; Protecting and Promoting the Open Internet, 80 Fed. Reg. 19,738 (Apr. 13, 2015) (codified at 47 C.F.R. pts. 1, 8, and 20).

7. *ALA Strenuously Opposes FCC Proposed Order on Net Neutrality*, ALA (Nov. 21, 2017), <http://www.ala.org/news/press-releases/2017/11/ala-strenuously-opposes-fcc-proposed-order-net-neutrality> [<https://perma.cc/YEE7-7E5S>]; *American Association of Law Libraries Rejects FCC’s Plan to Dismantle Net Neutrality Protections*, AALL (Apr. 27, 2017), <https://www.aallnet.org/wp-content/uploads/2017/11/AALL-Rejects-FCCs-Plans-to-Dismantle-Net-Neutrality-Protections-FINAL.pdf> [<https://perma.cc/TRY3-TCLV>].

technology and legal issues at play while discussing the framework in individual states. The European Union's and the United Kingdom's systems each receive a chapter examining their methods. As part of researching the book, Marsden conducted field interviews with a variety of stakeholders—those who are interested in and use the Internet—including regulators, government officials, IAPs, content providers, academics, and nongovernmental organizations.

¶75 In his conclusion, Marsden creates a regulatory toolkit that aims to help implement and enforce net neutrality in response to the issues addressed in the book. He also lays out a research agenda for the future, focusing on empirical analysis of the actors and instruments affecting net neutrality, which in turn can affect international and domestic privacy and governance issues.

¶76 For those wanting to stay current, Marsden has created a blog to accompany the book, *Net Neutrality in Europe*, <http://chrismarsden.blogspot.co.uk/> [<https://perma.cc/2JZY-SGUL>]. Despite the geographic limitation of the blog title, coverage extends to issues in other jurisdictions. There are several posts on the United States due to recent events.

Newman, Jon O. *Benched: Abortion, Terrorists, Drones, Crooks, Supreme Court, Kennedy, Nixon, Demi Moore, and Other Tales from the Life of a Federal Judge*. Getzville, N.Y.: William S. Hein & Co., 2017. 306p. \$29.95.

*Reviewed by Whitney A. Curtis\**

¶77 *Benched* is the memoir of Judge Jon O. Newman, a senior judge on the U.S. Court of Appeals for the Second Circuit. In his book, Newman offers us an insider's view of the workings of the U.S. Courts of Appeals. From his almost forty years on the court of appeals, he offers a candid assessment of his life and the opportunities he was afforded. This memoir is divided into five sections: "My First Case," "Before the Bench," "On the Bench," "Beyond the Bench," and "Immodest Proposals." He openly writes about what a judge does, including weighing the difficulty of deciding close cases without asserting personal or political preferences.

¶78 Part I, "My First Case," highlights his involvement with the abortion issue prior to *Roe v. Wade*.<sup>8</sup> After being a federal district judge for only two months, he was assigned *Abele v. Markle*, which subsequently became known as *Abele I*<sup>9</sup> and *Abele II*.<sup>10</sup> His opinions in *Abele I* and *Abele II* were cited in the majority opinion in *Roe* as well as quoted in Justice Stewart's concurring opinion. Years after *Roe*, Newman learned just how aware the U.S. Supreme Court was of his opinions in *Abele*. Part II, "Before the Bench," covers Judge Newman's life prior to his appointment as a federal district judge. This included his foray into politics and the connections he made that led to his appointment. He also recounts how his appointment was almost derailed before it even began.

¶79 "On the Bench" recounts his years as a federal district judge and circuit judge. He discusses the transition from lawyer to judge (very difficult with little to no training) and then the transition from district judge to circuit judge (much easier). Newman has written 1351 opinions, and he selects several to highlight the

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8. 410 U.S. 113 (1973).

9. 342 F. Supp. 800 (D. Conn. 1972).

10. 351 F. Supp. 224 (D. Conn. 1972).

variety of cases that come to a federal court of appeals. These opinions include cases on terrorism and national security, the First Amendment, discrimination (usually racial discrimination), intellectual property, corruption, events abroad, and federal procedure. However, Newman notes his most legally unusual case as one that required his interpreting the Articles of Confederation. Newman also recounts his track record with the U.S. Supreme Court in terms of which of his opinions were upheld and which were reversed.

¶80 Part IV, “Beyond the Bench,” recounts his endeavors off the bench, including his philanthropy work, teaching, and his work abroad consulting with members of judiciaries. Perhaps his most memorable activity is his book *A Genealogical Chart of Greek Mythology*, which was published in 2003 and finished a project his father had started in 1964. Finally, “Immodest Proposals” lays out Newman’s twenty proposals for improvements in the American system of justice. His proposals cover such varied topics as death penalty sentencing, jury selections, police misconduct lawsuits, independent counsel, and standing to sue government officials.

¶81 *Benched* recounts the extraordinary life Newman has been fortunate to live, made more compelling by the intriguing vignettes from his years as a prosecutor and his experiences in both state and local government. The prevailing theme Newman conveys throughout his book is the fortuitous opportunities afforded him throughout his life. These opportunities allowed him to witness the inner workings of the White House, Congress, and the Supreme Court, to be a U.S. attorney, a federal trial judge, and a federal appellate judge. He has interacted with presidents, senators, governors, and judges both here and overseas. After such an extraordinary life, he hopes his judicial legacy will be regarded as fair and his life judged as useful. Based on *Benched*, I think Newman succeeded in achieving both.

Posner, Richard A. *Reforming the Federal Judiciary: My Former Court Needs to Overhaul Its Staff Attorney Program and Begin Televising Its Oral Arguments*. Lexington, Ky.: CreateSpace, 2017. 301p. \$11.99.

*Reviewed by Stephen M. Wolfson\**

¶82 When I was looking for jobs during my 3L year, I remember being interested in an opening for a staff attorney at the Seventh Circuit because of the opportunity to work with Judge Richard Posner. Posner was one of those judges whose name I knew and whose opinions I recognized for both their reasoning and writing. Though I did not apply, I have always been sad for passing up the chance to work with and learn from Posner. However, after reading *Reforming the Federal Judiciary: My Former Court Needs to Overhaul Its Staff Attorney Program and Begin Televising Its Oral Arguments*, I am glad I was never the subject of Posner’s ire.

¶83 Creating immediate controversy upon its release—one reviewer called it “bananas” and “batshit crazy,” and a former Seventh Circuit staff attorney wrote an impassioned response paper—*Reforming the Federal Judiciary* is either a no-holds-barred exposé of the Seventh Circuit or “the rant of an angry old man” (p.248). Either way, despite its flaws, this book is an interesting look inside the mind of the inimitable Posner.

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¶84 Posner's primary focus in *Reforming the Federal Judiciary* is what he identifies as the severe inadequacies of the Seventh Circuit's staff attorney program. Each U.S. court of appeals employs attorneys who work with all of the judges on the court instead of with one, as law clerks do. These attorneys mostly handle *pro se* appeals. Staff attorneys usually serve two-year terms (though courts also employ permanent supervisory staff attorneys) and draft bench memos and propose dispositions for judges hearing *pro se* appeals.

¶85 For Posner, these memos are seriously problematic. He writes that they are often poorly written, are unintelligible to *pro se* litigants, and do not provide the help these litigants deserve. Because judges frequently incorporate the memos into their decisions, these problems harm *pro se* litigants. He faults staff attorneys for using inaccurate and esoteric writing, their supervisors for not providing adequate training, and the judges for not caring enough about the litigants. Posner seems to believe he is the only judge who truly cares about them. To illustrate his point, Posner reproduces several bench memos in his book. He presents them nearly in full, identifies their weaknesses, and suggests numerous edits to improve them according to his preferences.

¶86 Herein lies both a strength and a weakness with *Reforming the Federal Judiciary*. On one hand, Posner offers excellent advice that can improve anyone's legal writing. Conversely, Posner is often blunt—even mean—in a way that is unnecessary, unhelpful, and inappropriate. He undercuts the impact of his book by seeming like a nitpick and a curmudgeon, and by ignoring his own problems while criticizing the same problems in others. For example, he complains that the memos are often verbose, but his own work is nearly 400 pages, which he could have easily pared down.

¶87 After his discussion of the Seventh Circuit's staff attorney program, which includes excellent data about similar programs in other circuits, Posner turns toward the federal judiciary's antipathy for televising court proceedings. Currently, only the Ninth Circuit routinely permits video recording of its oral arguments. The other federal courts, including the U.S. Supreme Court, provide only audio recordings and transcripts.

¶88 Posner's argument for putting cameras in courtrooms is persuasive. He contends that hearings should be public, and the lack of video limits access to those who can attend in person. Audio recordings do not alleviate this because they do not capture things like body language, and they do not always indicate who is speaking. Listeners cannot adequately learn about judges' holdings from the recordings. Moreover, modern technology permits televising hearings without being disruptive or prohibitively expensive. Posner says he even offered to fund cameras for the Seventh Circuit himself. Additionally, he does not believe that cameras would cause judges and litigants to grandstand. Instead, Posner believes cameras could build confidence in the courts by showing judges as serious, well-prepared, and committed to justice.

¶89 This section is shorter than and mostly disconnected from the rest of the book, except that it provides another place where Posner can criticize the Seventh Circuit and especially Chief Judge Diane Wood. This public airing of grievances provides a unifying theme of the book. Throughout the book, Posner repeatedly

returns to the squabbles with Wood that led to his retirement. He spends a significant amount of time detailing conversations with Wood—even correcting her writing, as he did with the staff attorneys—and complaining about how she treated him.

¶90 Once again, Posner hurts his work by being unnecessarily harsh. For instance, responding to criticisms of a draft of his book, Posner notes that the Seventh Circuit chooses its chief judge by seniority instead of by merit or election. He uses this to question Wood's decisions not to accept his ideas for reform by saying she has her position merely by happenstance. As such, this comes off more like an attack on Wood than a serious point. Posner is brilliant and does not need to use such attacks, and his book suffers because he does.

¶91 In the end, *Reforming the Federal Judiciary* has value, but too often it is more diatribe than serious study. Nevertheless, the book has its strengths. Posner's interest in *pro se* litigants is certainly valid, and perhaps courts should provide more assistance than they do. His book is not crazy, but the length, specificity, and severity of Posner's criticism is shocking. It is worth reading, but with a skeptical eye. This book is insightful but ultimately flawed, like Richard Posner himself.

